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IN THE CIRCUIT COURT FOR THE FIFTEENTH JUDICIAL CIRCUIT
MONTGOMERY COUNTY, ALABAMA

KOURTNEY SOVERN GREENWOOD,
Petitioner,

v.

STATE OF ALABAMA,
Respondent.

Case No: CC 02-909.61 TMH

ORDER

This Court, having reviewed the Petitioner's "Petition for Relief From Conviction or Sentence" filed pursuant to Rule 32, A.R.Crim.P. and the State's "Answer and Motion for Summary Disposition," hereby finds as follows:

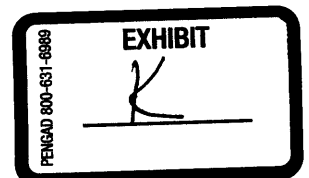
1. Petitioner fails to meet this burden placed upon him by Rule 32.1 (e) to sustain his argument to meet the definition of "newly discovered evidence" under subsection 32.1 (e).
2. As previously stated above, the Petitioner has not presented any "newly discovered evidence" as defined by Rule 32.1 (e). Therefore, the Constitution of the United States or the State of Alabama does not require a new trial, a new sentence proceeding, or other relief.
3. Petitioner's rights under the 6th and 14th Amendments to have a compulsory process for obtaining a witness was not violated by the State because the Petitioner had reasonable time to assert this claim in a previous petition but failed to do so.
4. Petitioner has previously raised this issue in his first Rule 32 Petition. Moreover, based on 1.2 (a), (c), and the comments, of the Alabama Rules of Professional Conduct Defense Counsel Hartley did not prejudice the defendant by not calling "key witness" Serillo. The choice whether or not to call a witness is a tactical decision that Attorney Hartley is free to make without the approval of his client.

For the above reasons, this Petition is barred and the Petitioner is not entitled to the relief requested. It is therefore **ORDERED, ADJUDGED, AND DECREED** that Petitioner's petition for relief from conviction or sentence is **DENIED**.

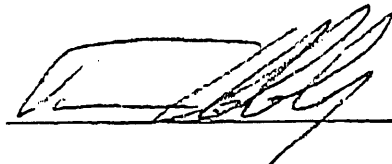
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CIRCUIT COURT CLERK

Respectfully submitted on this the 18 day of Nov 2004.



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TRUMAN HOBBS
CIRCUIT JUDGE

Dated, this the 18 day of Nov, 2004.

CC: Michael Graves, DDA
Kourtney Sovern Greenwood